IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4245 OF 2004

Shri.Yashwant Laxman Datar
and Anr. ..Applicants

Vs.

Shri.Waman Narayan Bhave
& Anr. ..Respondents

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Mr.M.J.Bhatt Advocate for Applicants
Mr.Jimesh Shah i/b Law Global for
Respondent No.1
Mr.D.S.Mhaispurkar A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : APRIL 12, 2006

P.C.

1. Heard the learned advocate for the applicants i.e. original accused and learned advocate for the respondent no.1 i.e. original complainant and the learned A.P.P. for the State.

2. The applicants are facing prosecution in C.C.No. 347 of 2004 which is pending before the learned Vth Judicial Magistrate F.C. Thane. The said case is under Sections 211, 193 and 500 read with Section 34 of IPC.

3. The applicants have prayed for quashing of process issued against them by order dated 15.7.2004 by the learned Judicial Magistrate F.C. Thane. The applicants had preferred Criminal Revision Application Nos.149 of 2004 and 150 of 2004 before the Sessions Court at Thane. The learned Sessions Judge by order dated 30.9.2004, held that revisions would not be maintainable in view of the observations of the Supreme Court in the case of **Adalat Prasad Vs. Rooplal Jindal reported in 2004 (4) Mh.L.J. 274**, hence, on this ground alone, the revisions came to be rejected.

4. After considering the decision in the case of **Adalat Prasad Vs. Rooplal Jindal (supra),** this Court in the case of **V.K.Jain Vs. Pratap V.Padode reported in 2005(3) Mh.L.J.778,** has held that revision before the concerned Sessions Court against the order of the learned Magistrate issuing process, is maintainable. In this view of the matter, the order dated 30.9.2004 passed by the learned Sessions Judge is erroneous and deserves to be set aside. Accordingly, order dated 30.9.2004 passed by the learned Sessions Judge in Criminal

Revision Application Nos.149 of 2004 and 150 of 2004, is set aside. The learned Sessions Judge shall hear the said revisions afresh. After hearing necessary parties, the learned Sessions Judge shall dispose of the said revisions afresh on merits. In the meantime, the proceedings before the trial Court are stayed for a period of four weeks.

5. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]